



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2021-0368; FRL-8716-02-R9]

Air Plan Approval; Nevada; Revisions to Clark County Ozone Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a revision to the State of Nevada’s state implementation plan (SIP) for Clark County. The revision consists of an update to certain elements of the maintenance plan for the Clark County air quality planning area for the 1997 8-hour ozone national ambient air quality standards (NAAQS or “standards”), including certain emissions inventories and motor vehicle emissions budgets. The EPA is approving the SIP revision because the Clark County ozone maintenance plan, as revised, continues to provide for maintenance of the 1997 ozone NAAQS and will not interfere with attainment or reasonable further progress of the other NAAQS, and the motor vehicle emissions budgets meet the applicable transportation conformity requirements.

DATES: This rule will be effective on [Insert date 30 days after date of publication in the *Federal Register*].

ADDRESSES: The EPA has established a docket for this action under Docket No. EPA-R09-OAR-2021-0368. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., Confidential Business information or other information whose disclosure is restricted by statute. Certain other materials, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. If

you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the FOR FURTHER INFORMATION CONTACT section.

FOR FURTHER INFORMATION CONTACT: Karina O'Connor, Air Planning Office (AIR-2), EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105; By phone: (775) 434-8176 or by email at *oconnor.karina@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us,” or “our” refer to the EPA.

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I. Summary of the Proposed Action

On August 9, 2021 (86 FR 43461), under section 110(k) of the Clean Air Act (“Act” or CAA), the EPA proposed to approve a SIP revision titled “Revision to Motor Vehicle Emissions Budgets for the 1997 Ozone NAAQS, Clark County, Nevada” (August 2020) (herein referred to as the “2020 Ozone Maintenance Plan Revision”), submitted by the Nevada Division of Environmental Protection (NDEP) on September 30, 2020.¹ The 2020 Ozone Maintenance Plan Revision updates certain elements of the maintenance plan for Clark County for the 1997 ozone NAAQS, including certain emissions inventories and the motor vehicle emissions budgets (“budgets” or MVEBs). The 2020 Ozone Maintenance Plan Revision was prepared in response to the EPA’s conditional approval of the “Revision to Motor Vehicle Emissions Budgets in Ozone Redesignation Request and Maintenance Plan: Clark County, Nevada” (October 2018) (herein referred to as the “2018 Ozone Maintenance Plan Revision”).² The 2020 Ozone

¹ NDEP submitted the 2020 Ozone Maintenance Plan Revision electronically on September 30, 2020, as an attachment to a transmittal letter dated September 25, 2020.

² 84 FR 44699 (August 27, 2019).

Maintenance Plan Revision revises certain budgets from the 2018 Ozone Maintenance Plan Revision to prevent interference with reasonable further progress or attainment of the 2008 and 2015 ozone NAAQS.³

As noted above, the 2020 Ozone Maintenance Plan Revision includes certain updated emissions inventories. In our August 9, 2021 proposed rule, we describe our evaluation of the updated inventories and conclude that, based on our review of the methods, assumptions, and data sources, the Clark County Department of Environment and Sustainability's estimates for 2017 and 2022 for the various source categories are based on the best available emissions models and data sources, and thus provide a reasonable basis upon which to evaluate whether the area will continue to maintain the 1997 ozone NAAQS through 2022 and whether the revised budgets for 2022 in the 2020 Ozone Maintenance Plan Revision would interfere with reasonable further progress (RFP) or attainment of the 2008 and 2015 ozone NAAQS.⁴

In our August 9, 2021 proposed rule, we also describe our review of the revised budgets for year 2022 in the 2020 Ozone Maintenance Plan Revision and conclude that they are consistent with the revised maintenance demonstration from the 2018 Ozone Maintenance Plan Revision; are based on control measures that have already been adopted and implemented; and meet all other applicable statutory and regulatory requirements including the adequacy criteria in 40 CFR 93.1118(e)(4) and (5).⁵

Lastly, in our August 9, 2021 proposed rule, we describe our review the 2020 Ozone Maintenance Plan Revision for possible interference with RFP or attainment with respect to the 2008 and 2015 ozone NAAQS in Clark County. In short, because the updated emissions inventories of ozone precursor emissions for 2022, including the revised budgets and related safety margins, would be less than the corresponding emissions inventories for year 2017, we

³ The 2018 Ozone Maintenance Plan Revision includes revisions to the attainment inventory, the maintenance demonstration, and budgets in the "Ozone Redesignation Request and Maintenance Plan, Clark County, Nevada (March 2011)" (herein referred to as the "2011 Ozone Maintenance Plan") to reflect updated emissions models, vehicle mix and speed data, and transportation activity projections.

⁴ See 86 FR 43464-43466 (August 9, 2021 proposed rule).

⁵ See 86 FR 43466-43467 (August 9, 2021 proposed rule).

conclude in our proposed rule that the 2020 Ozone Maintenance Plan Revision would not interfere with RFP or attainment for the 2008 and 2015 ozone NAAQS in Clark County and thus would be consistent with the requirements for SIP revisions under CAA section 110(l).⁶

For more information on the background for this action, including a description of the ozone NAAQS, the ozone area designations for Clark County, the 2011 Ozone Maintenance Plan and 2018 Ozone Maintenance Plan Revision, and the rationale for approval of the 2020 Ozone Maintenance Plan Revision, please see our August 9, 2021 proposed rule.

II. Public Comments

The public comment period for the EPA's August 9, 2021 proposed rule closed on September 8, 2021. The EPA did not receive any public comments.

III. Final Action

For the reasons discussed in our August 9, 2021 proposed rule and summarized herein, the EPA is taking final action under CAA section 110(k)(3) to approve the 2020 Ozone Maintenance Plan Revision submitted by NDEP on September 30, 2020, as a revision to the Clark County portion of the Nevada SIP. We are approving the 2020 Ozone Maintenance Plan Revision because we find that the 2011 Ozone Maintenance Plan, as revised by the 2018 Ozone Maintenance Plan Revision, and as further revised by the 2020 Ozone Maintenance Plan Revision, continues to provide for maintenance of the 1997 ozone NAAQS and will not interfere with RFP or attainment of the other NAAQS in Clark County.

In approving the 2020 Ozone Maintenance Plan Revision, the EPA is also finding adequate and approving the updated budgets for oxides of nitrogen (NO_x) and volatile organic compounds (VOC) for 2022 for the 1997 ozone NAAQS (shown in Table 1) based on our conclusion that the updated budgets meet the applicable transportation conformity and other CAA requirements.

Table 1 – Clark County Year 2022 Ozone Motor Vehicle Emission Budgets (county-wide, average summer weekday, tpd)

⁶ See 86 FR 43467-43468 (August 9, 2021 proposed rule).

Year	2020 Ozone Maintenance Plan Revision	
	NO _x	VOC
2022	32.16	23.92

Source: 2020 Ozone Maintenance Plan Revision, Table 3-1.

The revised budgets in Table 1 replace Clark County’s existing budgets for the plan horizon year (2022) for the 1997 ozone NAAQS from the 2018 Ozone Maintenance Plan Revision.⁷ The Regional Transportation Commission of Southern Nevada and U.S. Department of Transportation must use the revised budgets for future transportation conformity determinations for the 2015 ozone NAAQS until motor vehicle emissions budgets for that ozone NAAQS are found adequate or are approved.⁸

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves a state plan as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small

⁷ 40 CFR 93.118(f)(2)(iii).

⁸ As noted in the proposed rule, through this action, we are removing the conditional approval regulatory text found at 40 CFR 52.1475(a).

governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. The Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony has areas of Indian country geographically located within the Clark County 1997 ozone maintenance area. In those areas of Indian country, the action does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the

U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the ***Federal Register***. A major rule cannot take effect until 60 days after it is published in the ***Federal Register***. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days after date of publication in the *Federal Register*]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (*see* section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental regulations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: October 20, 2021.

Deborah Jordan,
Acting Regional Administrator,
EPA Region IX.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52 — APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart DD — Nevada

2. Section 52.1470 is amended in the table in paragraph (e) by adding an entry for “Revision to Motor Vehicle Emissions Budgets for the 1997 Ozone NAAQS, Clark County, Nevada (August 2020)” after the entry for “Revision to Motor Vehicle Emissions Budgets in Ozone Redesignation Request and Maintenance Plan: Clark County, Nevada (October 2018)” to read as follows:

§ 52.1470 Identification of plan.

* * * * *

(e) * * *

EPA-Approved Nevada Nonregulatory and Quasi-Regulatory Measures

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
Air Quality Implementation Plan for the State of Nevada¹				
* * * * *				
Revision to Motor Vehicle Emissions Budgets for the 1997 Ozone NAAQS, Clark County, Nevada (August 2020).	Clark County, Nevada: that portion of Clark County that lies in hydrogeographic areas 164A, 164B, 165, 166, 167, 212, 213, 214, 216, 217, and 218, but excluding the Moapa River Indian Reservation and	9/30/20	[INSERT <u>Federal Register</u> CITATION], [INSERT DATE OF PUBLICATION]	Submitted by NDEP electronically on September 30, 2020, as an attachment to a letter dated September 25, 2020. Approval of the 2020 Ozone Maintenance Plan Revision

	the Fort Mohave Indian Reservation.			removes the condition placed on the approval of the 2018 Ozone Maintenance Plan Revision.	
*	*	*	*	*	*

¹ The organization of this table generally follows from the organization of the State of Nevada's original 1972 SIP, which was divided into 12 sections. Nonattainment and maintenance plans, among other types of plans, are listed under Section 5 (Control Strategy). Lead SIPs and Small Business Stationary Source Technical and Environmental Compliance Assistance SIPs are listed after Section 12 followed by nonregulatory or quasi-regulatory statutory provisions approved into the SIP. Regulatory statutory provisions are listed in 40 CFR 52.1470(c).

* * *

§ 52.1475 [Removed and Reserved]

3. Section 52.1475 is removed and reserved.